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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 UNITED STATES OF AMERICA, et al.,

9 Plaintiffs,

10 v.

11 STATE OF WASHINGTON, et al.,

12 Defendants.

CASE NO. C70-9213 RSM

SUB-PROCEEDING NO. 17-03

ORDER

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14 This matter is before the Court following the parties' Joint Status Report and Contested
15 Proposed Orders Concerning Case Schedule. Dkt. #217.¹ Following the Court's order permitting
16 further discovery from Dr. Lane's son, the parties indicate that no additional documents were
17 obtained and that no deposition was taken. *Id.* The parties disagree on a schedule for the
18 remainder of this case and on the supplemental briefing permitted under the Court's prior order.
19 *Id.* Having considered the issues, the Court resolves them as follows.

20 As to supplemental briefing, and as noted by Stillaguamish and Swinomish, the Court
21 previously ordered that "all parties may provide supplemental briefing in support of pending
22 summary judgment motions based on information contained in the supplemental expert reports
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¹ Dkt. #22,389 in Case No. C70-9213RSM.

1 outlined above.” Dkt. #215² at 5. Upper Skagit and Tulalip take issue with that order, contending
2 that it:

3 (1) is confusing about how many briefs each party may file, (2) is not clear that
4 the briefing should be directed only to the new information, and (3) unfairly limits
5 the briefing “to information contained in the supplemental expert reports,” i.e., it
prohibits briefing about the new documents for which expert opinion is not
necessary and excludes information learned in the new depositions.

6 Dkt. #217 at 4. More specifically, Upper Skagit and Tulalip complain that parties “should be
7 able to make arguments based on information in the new Lane documents without paying an
8 expert to be the conduit for those arguments.” *Id.*

9 The Court may be sympathetic to these arguments but finds that the time for raising them
10 has passed. The language at issue was adopted as proposed by Stillaguamish and Swinomish.
11 *Compare* Dkt. #208³ at 3 *with* Dkt. #215 at 4–5. Upper Skagit and Tulalip did not object at that
12 time or seek further clarifying language. *See* Dkt. #209.⁴ The Court will not revisit the issue
13 now.

14 Accordingly, and having considered the issues and the record, the Court finds and
15 ORDERS:

- 16 1. By October 15, 2021, each party may file a supplemental brief and supporting material
17 as permitted by Rule 56 and LCR 7(b)(2). Supplemental briefing shall be “based on
18 information contained in the supplemental expert reports outlined” in the Court’s March
19 5, 2021 order (Dkt. #215) and shall not exceed five (5) pages.

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22 ² Dkt. #22,386 in Case No. C70-9213RSM.

23 ³ Dkt. #22,376 in Case No. C70-9213RSM.

24 ⁴ Dkt. #22,377 in Case No. C70-9213RSM.

2. The case schedule is hereby amended as follows:

TRIAL DATE	March 21, 2022
Plaintiffs' supplemental expert report due	June 15, 2021
Supplemental rebuttal expert reports due	August 18, 2021
Supplemental expert depositions completed	September 24, 2021
Supplemental summary judgment filings due	October 15, 2021
Stillaguamish to serve pretrial statement	December 3, 2021
Responding Tribes to serve pretrial statement	December 13, 2021
Deadline for filing motions in limine	December 30, 2021
Agreed pretrial order	January 26, 2022
Pretrial conference	To be scheduled by the Court
Trial briefs and trial exhibits due	March 16, 2022

Dated this 12th day of May, 2021.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE